

House File 678

H-1304

1 Amend House File 678 as follows:

2 1. Page 1, before line 3 by inserting:

3 <NEW SUBSECTION. 01. "*Adult criminal problem-solving*  
4 *court*" means a court program under direct supervision of a  
5 judge established to treat drug or alcohol addiction or mental  
6 illness of adults charged with criminal offenses.>

7 2. Page 1, after line 11 by inserting:

8 <NEW SUBSECTION. 3A. "*Special condition*" means a condition  
9 of probation that the court identifies as necessary to protect  
10 the public from the defendant's behavior constituting the  
11 underlying conviction.

12 NEW SUBSECTION. 3B. "*Special probation program*" means a  
13 program under the supervision of a district court or a judicial  
14 district department of correctional services established to  
15 treat drug or alcohol addiction, mental illness, or domestic or  
16 sexual abuse of the parties involved in a criminal case, or to  
17 improve outcomes for persons involved in the program, including  
18 a department-approved continuum of sanctions.>

19 3. By striking page 1, line 30, through page 2, line 30, and  
20 inserting:

21 <b. Notwithstanding any discharge credit accrued under  
22 subsection 6 or any educational credit accrued under subsection  
23 7, a defendant's probation officer shall complete a probation  
24 status report no later than halfway through the defendant's  
25 probation term and provide a copy of the probation status  
26 report to the defendant containing one of the following:

27 (1) An order that the defendant be discharged from probation  
28 early under subsection 2, paragraph "a", after approval of the  
29 district director and notification of the sentencing court and  
30 the county attorney who prosecuted the case.

31 (2) A recommendation that the defendant's probation be  
32 continued with reduced terms and conditions along with a  
33 description of the defendant's progress on probation and what  
34 conditions must still be completed before the defendant may be  
35 discharged from probation.

1     (3) A recommendation that the defendant's probation be  
2 continued as previously ordered along with a description of  
3 the defendant's progress on probation and what conditions must  
4 still be completed before the defendant may be discharged from  
5 probation.

6     c. (1) If the defendant's probation status report  
7 recommends that the defendant continue probation with reduced  
8 terms and conditions under paragraph "b", subparagraph (2), or  
9 that the defendant's probation continue as previously ordered  
10 under paragraph "b", subparagraph (3), the probation officer  
11 shall include a description of why continued probation is  
12 necessary and beneficial and shall also include any discharge  
13 credits and educational credits the defendant has accrued.

14     (2) If the probation status report does not recommend early  
15 termination of the defendant's probation, the defendant may  
16 request a court hearing on the issue of early termination of  
17 the defendant's probation. The requested hearing shall be held  
18 no later than ninety days from the date of the defendant's  
19 request. At the hearing, the court shall review the probation  
20 status report; the defendant's progress and conduct on  
21 probation, including whether the defendant has attended  
22 court-ordered mandatory counseling or treatment and whether the  
23 defendant is subject to a payment plan and has been found to  
24 afford payments but is purposely avoiding making payments; the  
25 underlying offense and its relationship to the conditions of  
26 probation imposed on the defendant; the defendant's criminal  
27 record; and any mitigating factors to determine whether to  
28 reduce the terms and conditions of the defendant's probation,  
29 continue the defendant's probation, or discharge the defendant  
30 from probation.

31     d. Nothing in this subsection shall preclude a probation  
32 officer or the court from terminating the defendant's probation  
33 early at any time under subsection 1 or 2 or under any other  
34 applicable provision.

35     e. Paragraphs "b" and "c" shall not apply to proceedings

1 in adult criminal problem-solving courts and special probation  
2 programs.>

3 4. Page 4, by striking lines 21 through 31 and inserting:

4 <NEW SUBSECTION. 8. At least once a year and in the  
5 probation status report provided halfway through the  
6 defendant's period of probation pursuant to subsection 2,  
7 paragraph "b", the defendant's probation officer shall provide  
8 the defendant with an accounting of the defendant's discharge  
9 credits and educational credits that have accrued pursuant to  
10 subsection 6 and 7. A defendant may earn both a discharge  
11 credit and an educational credit to be applied toward the  
12 completion of the defendant's probation in accordance with  
13 this subsection. The defendant may ask a court to review the  
14 defendant's discharge credits and educational credits contained  
15 in the defendant's probation status report.

16 NEW SUBSECTION. 9. Subsections 6, 7, and 8 shall not apply  
17 to proceedings in adult criminal problem-solving courts and  
18 special probation programs.>

19 5. Page 5, by striking lines 17 through 20 and inserting:

20 <(4) If the technical violation of probation is a violation  
21 of a special condition, the court may impose an additional  
22 sentence of up to thirty days of imprisonment in addition to  
23 any sanctions imposed pursuant to subsection 1 or 2.>

24 6. Page 7, after line 6 by inserting:

25 <6. This section shall not apply to proceedings in  
26 adult criminal problem-solving courts and special probation  
27 programs.>

28 7. By renumbering, redesignating, and correcting internal  
29 references as necessary.

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KERR of Louisa